

### REMARKS

The examiner has rejected all pending claims under 35 U.S.C. 102(b) as anticipated by Patterson, et al United States Patent Application 20020198813, December 26, 2002 (hereinafter Patterson).

Applicants disagree because Patterson neither describes nor suggests ... checking if a market participant identification associated with the order from the customer matches a market participant identification representing a quote in the system which is at the best bid or best offer price in the system and if ... matches ..., matching off the customer order against the one of the best bid or best offer quote of the matching market participant identification that is at the opposite side of the market irrespective of any other priority established for matching orders in the system as recited in claim 1 and as generally recited in claim 18.

The examiner contends that Patterson teaches "checking if a market participant identification associated with the order matches a market participant identification representing a quote in the system which is at the best bid or best offer price in the system." The examiner relies on the passages at paragraphs 106, 126 and 145 for support. Paragraphs 106 and 126 are reproduced below: (Paragraph 145 depicts a data structure and is not reproduced below)

[0106] Also provided is a customer/give-up box 384 that allows each of the customer and give-up entity to be entered. The "customer" as used in this specification includes the actual person requesting the trade, each of the trading desks (institutional, retail, arbitrage, etc.), direct access entities (those brokerage firms on the floor that do not have trading desks), and the like. The give-up entity is the exchange member that the transaction is given to for processing and settlement purposes. The customer and give-up entity information forms a part of the order. As a result, the floor broker is alerted to which customer has requested the trade, which in turn may connote certain handling procedures are called for. For example, the arbitrage trading desk may require faster execution than the institutional trading desk, as a general rule. Further, the identification of the customer aids in the subsequent clearing process.

[0126] To report a trade, the floor broker writes the quantity being purchased in a region 462, the price at which the trade has been done in regions 464a-f, a contra identifier region 466 and a badge number region 468 of the person with whom the floor broker is trading is also entered. The price defaults to any limit price shown in the information section 460, but may be adjusted as described above, in connection with the elements 374-380 of FIG. 4. Also, a contra broker box 530 may appear on the broker's screen, as shown in FIG. 10, to facilitate selection of a contra broker. The contra box 530 includes a plurality of dynamically changeable buttons 532 which may be touched with the pen-type input device (or fingernail) to cause the acronym for the contra to be inserted into the contra identifier region 466. The badge number of the selected contra broker 466 that was used the last time that contra was selected is inserted into the badge number region 468. The buttons 532 are changeable by writing a new contra identifier into a region 534, touching one of the buttons 532, and then adding the new contra button (or replacing an existing contra button) by pressing a plus button 536. An "ok" button 538 closes the contra box 530. The floor broker indicates that a trade is a crossed-trade, that is, the floor broker is crossing the present order with another one that with compatible terms in this box by touching the appropriate complementary side of the trade in that stock, which list is preferably sorted from the list of unfilled orders for all stocks that the floor broker is to trade and listed in a region 540 of the contra box 530. The badge number 468 is entered using a keypad 470.

[0145] A data structure according to one aspect of the invention is shown in pseudocode below:

omitted for clarity.

As such, Patterson does not disclose a system where orders are matched-off against particular quotes as required in pending claims 1 and 18. In paragraph 0106 Patterson discloses a give-up process. According to Patterson a give-up process "allows each of the customer and give-up entity to be entered." The "customer" is the actual person requesting the trade, each of the trading desks (institutional, retail, arbitrage, etc.), direct access entities (those brokerage

firms on the floor that do not have trading desks), and the like. The give-up entity is the exchange member that the transaction is given to for processing and settlement purposes.

While Patterson does describe that the customer and give-up entity information forms a part of the order, nowhere does Patterson suggest that Patterson system checks the customer and give up entity for a match. In fact, as described in Patterson the give up entity is the exchange member that the transaction is given to for process and settlement. Hence since the transaction has been completed by the time the give-up entity receives it there would be no point to modify Patterson to allow any such comparison of a market participant identification associated with the order from the customer matches a market participant identification representing a quote in the system which is at the best bid or best offer price in the system, as recited in claim 1.

Further, Claim 1 also recites that if there is a match, to match off the customer order against the one of the best bid or best offer quote of the matching market participant identification that is at the opposite side of the market irrespective of any other priority established for matching orders in the system. This is also not taught by Patterson. Patterson merely assists a floor broker by alerting the floor broker to which customer has requested the trade, which in turn may connote certain handling procedures are called for. For example, the arbitrage trading desk may require faster execution than the institutional trading desk, as a general rule. Patterson does not teach to match off the customer order against a matched quote of the matching market participant identification while disregarding execution priority established for matching orders in the system.

Clearly therefore, Patterson does not teach a method where if a market participant identification associated with the order from the customer matches a market participant identification representing a quote in the system which is at the best bid or best offer price in the system to matching off the customer order with the matching quote of the matching market participant irrespective of any other priority established for matching orders in the system.

For at least these reasons, Applicants submit that claim 1 should be allowed. For the same reasons, Applicants submit that dependent claims 3-10 should also be allowed. Moreover, dependent claims 3-10 are further distinguished from Patterson.

Claims 3 is further distinguished from Patterson in that Patterson does not teach or suggest matching-off an order without respect to a time priority of other quotes in the system, at the opposite side of the market to the customer order.

Claim 4 is further distinguished in the Patterson does not teach or suggest calling a cancel request to cancel a quote at the side of the market in which a matched off order will be executed.

Claim 5 is further distinguished in that Patterson does not teach or suggest calling a cancel request prior to matching off the order to cancel a quote at the side of the market at which a matched off order will be executed.

Claim 6 is further distinguished in that Patterson does not teach or suggest routing an order to a market participant corresponding to the market participant that has the one of the best bid or offer that is at the opposite side of the market.

Claim 7 is further distinguished in that Patterson does not teach or suggest checking a customer order against proprietary quotes and agency quotes of a market participant identification representing a quote in the system, which is at the best bid or best offer.

Claim 8 is further distinguished in that Patterson does not teach or suggest receiving an internal book value of the market participant to match-off against the market participant's posted agency or proprietary quotes.

Claim 9 is further distinguished in the Patterson does not teach or suggest receiving the order from a market participant via an order execution system. Rather Patterson simply shows a type of order execution system that may be used by a single market participant.

Claim 10 is further distinguished in that Patterson does not teach or suggest receiving the order from the market participant via a negotiation order entry system.

Claim 11 is distinguished from Patterson. Patterson does not describe an order execution process that receives orders and matches orders against quotes posted in a market system on a time priority basis. Patterson clearly teaches away from this element. See for instance, paragraph 121 reproduced below:

[0121] As shown in FIG. 8, the broker has obtained quote information indicating that the stock IBM is presently trading at 1/2 to 5/8 (the whole dollar amount of the price being understood) with a buying interest of 20,000 shares and a selling interest of

30,000 shares. Apart from the transmission of the image of the quote slip, this information is conventionally available from quotation services such as ADP and Quotron. However, in accordance with an aspect of the invention, the floor broker is able to transmit the flavor or color of the market in the blank space 444. Here, the floor broker has conveyed that Merrill Lynch has a buying interest in IBM at a price  $1/8$  lower than the quoted spread, namely at 65 and  $3/8$  and that Bear Stearns has a selling interest of an additional 100,000 shares to sell that are not reflected in the selling interest noted in the conventional quote. As explained above, this insight is obtained from the trading crowd and is one of the benefits of the auction market which distinguishes it from so called "black box" markets (in other words, automatic order matching systems). This insight can cultivate trades through the continuous monitoring or awareness of trading interests beyond the official quote.

Patterson also does teach an order match-off process that checks if a market participant identification associated with a received customer order matches a market participant identification representing a quote ... at the best bid or best offer price ... and ... matches off the customer order against the ... quote of the matching market participant identification ... irrespective of any other priority established for matching orders in the system.

Applicants submit that claim 11 is allowable over Patterson. For the same reasons, dependent claims 12-14, 16-17 are also allowable. Moreover, claims 12-14 and 16-17 are further distinguished from Patterson.

Claim 12 further distinguishes in that Patterson does not teach or suggest a match-off process which includes a process to execute an order against one of the best bid or best offer at the opposite side of the market, Claim 13 further distinguishes by reciting a process to request a cancellation of a quote at the side of the market in which an internalized order will be executed.

Claim 14 further distinguishes in that Patterson does not teach or suggest a routing process to route an order to a market participant corresponding to the participant that has one of the best bid or best offer that is at the opposite side of the market.

Claim 16 is further distinguished in that Patterson does not teach or suggest a process to request a cancellation of a quote at the side of the market in which an internalized order will be executed.

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Claim 17 is further distinguished in that Patterson does not teach or suggest a routing process to route an order to a market participant corresponding to the participant that has the one of the best bid or best offer that is at the opposite side of the market.

Claim now recites match off the received customer order against the quote at the opposite side of the market irrespective of any other priority established for matching orders in the system. Claim 18 is distinguished from Patterson for similar reasons as discussed above.